

INSTITUTIONAL BIAS AT THE ONTARIO COLLEGE OF TEACHERS SUMMARY OF CONCERNS

Principals and vice-principals in Ontario are mandated by statute to belong to the Ontario College of Teachers (OCT), and comprise about four per cent of the College's membership. Notwithstanding their small numbers, complaints against principals and vice-principals annually range between approximately 15 and 20 per cent of all complaints investigated by the College. There are several reasons for this disproportionate number of complaints: as the school-based manager, complainants seek to hold principals accountable for the actions of others; as the party responsible for meting out school discipline, our members are often alleged to have disciplined too lightly (by a student victim's family), or too strongly (by the family of the student engaging in wrongdoing). Moreover, as the supervisor of staff, principals are targets for complaints by staff related to performance evaluation issues, management style, discipline they've meted out to staff, and/or their interpretations of the laws, regulations and/or collective agreements that apply to the workplace.

School leaders have additional qualifications (required by law), perform different statutory duties, and stand in a supervisory relationship to teachers, including being responsible for implementing the employer's interpretation of collective agreement terms, as well as evaluating and disciplining teachers. This makes principals and vice-principals "different" from teachers, makes them uniquely vulnerable to complaints, and often means that their interests conflict with those of classroom teachers.

Principals and vice-principals currently have only one representative on the College Council. This makes it unlikely that the sole principal or vice-principal representative will be elected to serve in a leadership capacity on the Council, which deprives principal and vice-principal members of an active role on the Executive Committee of the College.

As minority members of the OCT, principals and vice-principals are also hard-pressed to find themselves reflected in College publications, such as the Standards of Practice, or the College's Advisories and other communications to members. These seminal documents, as well as the College's quarterly magazine, rarely reflect the unique voice, challenges or opportunities for principals and vice-principals.

Finally, OPC, CPCO and ADFO share a concern that the investigation, discipline and fitness to practice processes of the College are neither fair, nor impartial for our members because of the College's refusal to provide school leaders with meaningful peer review. This has been a longstanding and ongoing concern, which we have repeatedly addressed with the College and the Ministry of Education over a number of years. Indeed, the government amended the *Ontario College of Teachers' Act* in response to our concerns in 2006, to enable the College to provide peer review for principals and vice-principals. Unfortunately, the College Council refused to enact the necessary regulation.

Thereafter, in 2012, we made submissions to the Honourable Justice Patrick LeSage on this issue, and he specifically recommended that peer review be implemented as an important component of fairness for principals and vice-principals at the OCT. To that end, he overtly acknowledged our concerns about institutional bias and stated:

Teachers correctly assert one of the values of self-regulation is peer review, yet they deny principals/vice-principals this right. A principal facing an allegation of misconduct

or incompetence will be adjudicated by teacher union members, even when the allegation may have come from a teacher and/or the conduct being complained of is a managerial issue. In my view, principals could not but come to the conclusion that there exists a reasonably founded apprehension of bias when their conduct, particularly in cases where teachers are the complainants, and/or the conduct in issue flows from a managerial action by the principal, is being adjudicated without a principal/vice-principal perspective. (Page 44)

Notwithstanding his strong endorsement of the need for peer review for principals and vice-principals, and the fact that the College Council accepted the vast majority of Mr. Justice LeSage's other recommendations, the Council did not act on this recommendation:

Recommendation 26: *The Ontario College of Teachers Act* should be amended to require that a panel established to hear or review a matter relating to a principal or vice-principal must include a principal or vice-principal or retired principal or vice-principal. (Page 44)

Instead of adopting this recommendation, the matter was referred to the individual committees for consideration. One of the committees – Discipline – agreed in limited circumstances to provide a version of peer review to school administrators by including one person with principal qualifications on the panel if the matter was deemed by the staff to be about a management issue. This limited version of peer review at the Disciplinary Committee stage is insufficient to address our concerns and is not responsive to Mr. Justice LeSage's recommendation.

The Fitness to Practice Committee has refused outright, to date, to provide peer review. The Investigation Committee initially determined that it would grant peer review with an extension to include Supervisory Officers and Directors, but this was voted down by the full Council when the decision was brought forth to be ratified. This vote occurred without the lengthy discussion at the Committee level.

Since then, in December 2015 we received notice that the Investigation Committee would "endeavour to make best efforts" to begin to provide peer review; however, we received no information about the terms upon which it will be provided, if any, nor do we know whether Council will have the opportunity to quash this Committee decision a second time.

Peer review has become even more important in recent years, since the centralization of bargaining for teacher contracts. An "us versus them" mentality has pervaded the sector, and it's simply untenable to allow the status quo to continue at the College – where classroom teachers, whose professional interests may be and often are in conflict with education leaders, assess the conduct of and discipline these education leaders. The unfairness to principals and vice-principals is obvious and, in this climate, gravely concerning.

We are calling upon the government to create a structure within the existing College of Teachers with a mandate to address the issues unique to school leaders and to ensure peer review in investigation, discipline and fitness to practice matters. This would require a change to the composition of the Council by increasing the number of principals, vice-principals and other education leader representatives. In our view, it would be fair to provide principals and vice-principals with a proportion of membership on Council that is reflective of the proportion of complaints against them. If principals were given 15-20 per cent of the elected positions on College Council, they would have a much better opportunity to serve on the Committees of the College, it would be easier to ensure they were sitting on panels where

administrator members' conduct was in issue and hence facilitate peer review, and it would give them a more meaningful voice on the Council. Moreover, this structure could ensure that all publications of the College always contain a section that "speaks" to education leaders.

If classroom teachers continue to represent a majority on Council, we would recommend that peer review – that is, inclusion of at least two practising principals and/or vice-principals¹ on any panel considering the conduct of an education leader – be mandated by legislation, rather than left to the discretion of Council. If necessary to fulfill the commitment to peer review, retired principals or vice-principals may be acceptable to us as panelists, so long as they retired from their principal or vice-principal position within the previous five years. We support peer review for all education leaders who are also members of the College, on essentially the same terms.

If the institutional bias at the College cannot be resolved through a structure within the existing College framework, then we will be asking the government to explore removing principals, vice-principals, supervisory officers and directors from the current College of Teachers structure, and to form a professional college for education leaders. The new structure would ensure that education leaders could govern themselves (in the public interest); that their professional publications would address issues unique to them; and that their conduct, competence and capacity would be subject to review by true peers, with comparable training and experience.

We are supported in our requests by the Supervisory Officers' and Directors' associations in the English, French, public and Catholic associations in the province.

¹ As defined in O.Reg. 293/00: Election of Council Members, made under the *Ontario College of Teachers Act, 1996*.